Supreme Court, U.S.
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ALEXANDER L. STEVAS
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NO. 82-~~6929~~ 6729

IN THE

SUPREME COURT OF THE UNITED STATES

October Term, 1982

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GIRVIES DAVIS, Petitioner

-vs-

PEOPLE OF THE STATE OF ILLINOIS, Respondent

ON PETITION FOR WRIT OF CERTIORARI

TO THE SUPREME COURT OF ILLINOIS

RESPONSE TO STATUS REPORT

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OF COUNSEL

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Now comes THEODORE A. GOTTFRIED, of the Office of the State Appellate Defender, whose office was appointed by the Circuit Court of St. Clair County, Illinois, to represent GIRVIES DAVIS on direct appeal to the Illinois Supreme Court which appointment was continued by the Illinois Supreme Court for purposes of filing a petition for writ of certiorari in this Court, which petition was filed on May 13, 1983, and, in response to a "Status Report" filed by Respondent on November 1, 1983, states the following:

1. That the "Status Report" shows only that nothing has occurred to alter the status of this cause since August 26, 1983, when a motion was filed requesting this Court to order a judicial determination of Girvies Davis' competence to dismiss the petition for writ of certiorari.

2. That the refusal of the trial court of Madison County, Illinois, to grant the State's motion for a fitness hearing in an unrelated case does not constitute an adjudication that Girvies Davis is in fact competent to appreciate his position and make a rational choice to dismiss the petition for writ of certiorari. The court's refusal to hold a hearing was due to the State's failure to present any evidence in support of its motion.

3. That the State's assertion that trial counsel "objected to" and "resisted" a fitness hearing is misleading and irrelevant. In fact, counsel specificied that he was conveying Girvies Davis' personal objections to the motion but was not taking that position as Davis' attorney. (MH. 19, 37) Moreover, trial counsel stressed that he was "not taking the position [Davis is] competent at all." (MH. 35) In noting that the prosecution had presented no evidence on that question counsel was merely stating the obvious.

4. That the true status of this case is unchanged. There are substantial questions about Girvies Davis' competence to choose to dismiss the petition for certiorari. There has been no

hearing on this question in state court. Nevertheless, the State of Illinois asks that the petition for certiorari be dismissed and that Girvies Davis be executed. This Court should not allow that result.

WHEREFORE, it is respectfully requested that this Court direct the Illinois Supreme Court to order the appointment of qualified persons to conduct appropriate medical and psychiatric examinations of Girvies Davis and to report their finding to the Circuit Court of St. Clair County, so that the court can conduct a full and fair hearing on the issue of Girvies Davis' competence to appreciate his condition and make a rational choice to dismiss the petition for writ of certiorari. It is further requested that this Court defer disposition of the petition pending the determination of competence.

Respectfully submitted,

Theodore A. Gottfried

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